1529

SUPREME COURT OF THE UNITED STATES.

No. 232.

THE UNITED STATES, APPELLANTS,

vs.

CONSTANCE LE BLANC ET AL., HEIRS OF PIERRE LE BLANC, DECEASED.

APPEAL FROM THE DISTRICT COURT, U. S., FOR THE EASTERN DISTRICT OF LOUISIANA.

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GIDEON, Printer.

United States of America, eastern district of Louisiana. United States district court, sitting in chancery.

CONSTANCE LE BLANC et al.
vs.
THE UNITED STATES. } 131. Land cause.

Be it known and remembered, that heretofore, at the May term, A. D. 1846, of the said court, to wit, on the sixteenth day of June, of said year, Constance Le Blanc and others, plaintiffs in the above entitled cause, came by their attorneys, Messrs. Janin, Preaux, and St. Paul, into the office of the clerk of said court, and there filed their petition, which is in the words and figures following, viz:

Petition filed June 16th, 1846.

To the honorable the United States district court for the district of Louisiana.

The joint petition of Constance Le Blanc, Modeste Le Blanc, Louis Le Blanc, Aspasia Le Blanc, Joseph Leon, and Raphael Broissard, the legal representatives and heirs at law of the late Pierre Le Blanc, deceased, all residing in the State of Louisiana;

Humbly shewing, that in the year 1777 Pierre Le Blanc, a then resident of the province of Louisiana, obtained from the Spanish Government a grant or concession of a certain tract of land situated in the county of Opelousas, in the place commonly called "la grand prairie," said tract measuring seventy arpents front by forty in depth on the said prairie, being bounded on one side by the lands of Louis Roger, and on the other by lands then still belonging to the public domain.

Petitioners further show, that the said concession was made to their ancestor on the 5th day of January of the aforesaid year, 1777, at a time when the full power and sovereignty of the crown of Spain could not be questioned or doubted, being derived from the cession to it made by the King of France in the year 1762.

Petitioners further represent, that under the act of Congress approved June 17th, 1844, entitled "An act to provide for the adjustment of land claims, &c., &c.," they have a right to bring their aforesaid claims before this court to be inquired into and decided upon according to law.

Petitioners further say, that they are not aware, and do not believe, that any persons claim any portion of said land under title different from that of petitioners, or hold possession thereof without the consent or permission of petitioners.

Therefore petitioners pray that the United States of America, through the United States district attorney for the district of Louisiana, be cited, and that the above described claim of petitioners be declared valid and confirmed. That the surveyor General for the State of Louisiana be ordered to survey the said land, and to make on his plat of survey what

portions of said land, if any, had been sold or otherwise disposed of by the United States, and that the petitioners may be permitted to enter, in lieu of the lands so sold or disposed of, an equal quantity of land in any land office of the United States in the State of Louisiana.

And the petitioners pray for their costs, and for all such other and further relief as the nature of this case may require.

(Signed LOUIS JANIN, RT. PREAUX, HENRY S. PAUL, } *Of counsel.*
Per HENRY ST. PAUL, *Attorney.*

And thereupon, at the same term, to wit, on the 22d day of June, A. D. 1846, was issued from the clerk's office the following

Citation.

UNITED STATES OF AMERICA,

The President of the United States to the marshal for the district of Louisiana, greeting:

You are hereby commanded to summon S. W. Downs, United States district attorney, to appear before the honorable the judge of the district court of the United States, for the district of Louisiana, at a district court to be holden on the first Monday of August, 1846, then and there to answer a petition in chancery, filed against the United States, wherein Constance Le Blanc and others are petitioners, and said United States is defendant. Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Mem.—The defendant is to enter an appearance in the above cause, in the clerk's office on or before the first Monday of August, 1846, otherwise the petition may be taken pro confesso.

Witness the honorable T. H. McCaleb, judge of the said court, this the 22d day of June, in the year of our Lord one thousand eight hundred and forty-six, and the 70th year of American independence. [SEAL.]

(Signed) L. E. SIMONDS, *Dep'y Cl'k.*

Whereon was afterwards duly registered, according to law, the following

Marshal's return.

Received June 22d, 1846, and on the same day I served a copy of the within citation and petition on S. W. Downs, esquire, in person.

Returned June 22d, 1846.

(Signed) WM. E. WELLS,
U. S. dep. marshal.

Returned and filed June 22d, 1846.

(Signed) L. E. SIMONDS, *Dep'y Cl'k.*

And further, at the same term, to wit, on the 11th day of November, A. D. 1846, appeared the defendants by their attorney, and filed the following

Answer.

CONSTANCE LE BLANC et al.
vs.
THE UNITED STATES.

In the district court of the United States, for the district of Louisiana.

The answer of the United States, the defendant in the above named cause, respectfully shows, that they deny all and singular the facts and allegations of plaintiffs' petition.

Wherefore they pray to be hence dismissed, and that plaintiffs be condemned to pay all costs.

(Signed) THOMAS J. DURANT,
Attorney U. S.

And afterwards, at the May term, A. D. 1849, of the said court, to wit, on the 22d day of May of said year, was entered of record on the minutes the following

Order.

CONSTANCE LE BLANC et al.
vs.
THE UNITED STATES.
No. 131.

On motion of M. Taylor, esquire, of counsel for complainants in this cause, it is ordered that said complainants have leave to amend their petition.

And further, at the same term, to wit, on the 30th day of May, A. D. 1849, was entered of record the following order of submission, viz:

CONSTANCE LE BLANC et al.
vs.
THE UNITED STATES.
No. 131.

This cause having been called up for hearing, (by virtue of and in furtherance of the general order entered at the opening of this term,) it was by consent of parties submitted to the court on the document and evidence of record.

And be it remembered, that the "document of record," and offered as evidence in this cause, is the following:

LAND OFFICE, *southeastern district, La.*

Dn. Bernardo de Galvez, coronal, &c.

Vista las antecedentes diligencias practicadas por el comandante de Atacapas, Dn. Alesandre Declobet sobre la poscesion que a dado a Pedro Leblanco de 10 arpanes de tierra de frente en la praderia grande con la

[illegible] de quarenta y dos, lindando por un lado con tierras de Luis Roque, y por otro con las vacantes y reconociendo estar arregladas a las concesiones de estos sin causan les perjuicio algo., ni que lo haian reclamado y si bien consentido segun justifica su asistencia ad has operaciones aprovandolar como las aprovamos usando, &c. Nueva Orleans, 5 de Eno. de 1777. Dn. Bernardo de Galvez, por mandado de su señoria, Dn. Josef Foucher.

REGISTER'S OFFICE, *New Orleans, La.*

I, Louis St. Martin, register of the land office at New Orleans, Louisiana, do hereby certify the foregoing document to be a true copy, taken from one of the records of my office, entitled "Libro 1 of French and Spanish concessions."

In faith whereof I hereunto subscribe my name this 18th day of May, 1849.

(Signed) L. ST. MARTIN, *Register.*

Close of evidence.

And afterwards, at the same term, to wit, on the eleventh day of June, A. D. 1849, was rendered and recorded on the minutes of the court the following

Judgment,

which was duly engrossed and signed on the twelfth day of June, 1849, viz:

United States district court, eastern district of Louisiana. Sitting in chancery.

May term, 1849.

Monday, June 11th, 1849. Present the hon. Theo. H. McCaleb.

C'DE LE BLANC et al.
vs.
The UNITED STATES. } No. 131.

This cause came on to be heard at the present term, to wit, on the 30th May last past, on the petition and answer, and the evidence adduced by the parties, and was thereupon submitted to the court.

And the court having maturely considered the same, and being satisfied from the evidence that, on the 5th day of January, 1777, Don Bernardo de Galvez, governor of the province of Louisiana, for the king of Spain, having full power and authority so to do, did grant to Pedro Le Blanc, then a resident of the said province of Louisiana, a tract of land in the "Grande Prairie" in Opelousas, having ten arpents front, with a depth of forty-two arpents; bounded, at the date of said grant, on one side by the lands of Louis Roque, and on the other by vacant lands; and being further satisfied that the petitioners are the heirs and legal representatives of the said Pedro Le Blanc, and that the said grant was and is a good and valid grant from the Spanish government to the said Le Blanc, and that the same was protected by the treaty made between the

United States and the French Republic, on the 30th of April, 1803, as well as by the laws of nations, and the Constitution and laws of the United States.

This court, acting under and by virtue of the act of Congress of the 26th of May, 1824, "entitled an act enabling the claimants to lands within the limits of the State of Missouri and territory of Arkansas, to institute proceedings to try the validity of their claims;" and also an act approved on the 17th of June, 1844, entitled, "an act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers," doth order, adjudge and decree, and it is hereby ordered, adjudged, and decreed, that the petitioners, Constance Le Blanc, Modeste Le Blanc, Louis Le Blanc, Aspasia Le Blanc, Joseph Leon, and Raphael Broussard, the heirs and legal representatives of the said Pedro Le Blanc, are the true and legal owners of, and have good title against the United States, the defendants, in and to a tract of land in the grand prairie, in Opelousas, having ten arpents front, with a depth of forty arpents, as described in the concession in favor of the said Pedro Le Blanc, made on the 5th of January, 1777, by Don Bernardo de Galvez, governor of the province of Louisiana, under the king of Spain; a certified copy of which is on file, as offered in evidence on the submission of this cause.

It is further ordered, adjudged, and decreed that, in case said lands so claimed by the said plaintiffs, and to which they are hereby decreed to have a good title against the United States, or any part or portion thereof, shall have been sold, or otherwise disposed of by the United States, or if the same shall not have been heretofore located, said plaintiffs shall be, and they are hereby, authorized to enter in any land office of the United States, in the State of Louisiana, in parcels conformable to sectional divisions and subdivisions, a like quantity of public lands, after the same shall have been offered at public sale.

Judgment rendered 11th June, 1849.

Judgment signed 12th June, 1849.

(Signed) THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And finally, at the same term, and on the same twelfth day of June, A. D. 1849, was moved for, in open court, granted and recorded, the following

Order of appeal.

United States district court, May term, 1849.

Before the honorable Theodore H. McCaleb, judge of the said district court, Tuesday, 12th June, 1849.

On motion of Logan Hunton, attorney of the United States for the district aforesaid, and of Thomas J. Durant, on the same behalf, and on giving the court to understand, and be informed, that the United

[illegible] injured and aggrieved by the judgment of this honorable court rendered against them at this term in the matter of Constance Le Blanc and others versus The United States, and desire to appeal therefrom.

It is thereupon ordered by the court, that an appeal be allowed in favor of the United States from the judgment aforesaid, returnable to the Supreme Court of the United States at the next term thereof after the date of this order.

Finis.

United States of America, eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United States, sitting at New Orleans, in and for said district, do hereby certify, that the foregoing ten folios of manuscript contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery, wherein Constance Le Blanc et al. are plaintiffs, and the United States are defendants. No. 131 of the land docket of said court.

In testimony whereof I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, this thirty-first [SEAL.] day of August, one thousand eight hundred and forty-nine, and the seventy-fourth year of American independence.

N. R. JENNINGS,
Clerk U. S. dist court, east. dist. of La.

I, Theodore H. McCaleb, judge of the district court of the United States, for the district of Louisiana, do certify, that N. R. Jennings, who subscribed the above certifiate, was at the time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; and that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

In witness whereof I hereunto set my hand and seal this 24th day of September, 1849.

THEO. H. McCALEB. [SEAL.]

United States of America.

To Constance Le Blanc, Modeste Le Blanc, Louis Le Blanc, Aspasie Le Blanc, Joseph Leon, and Raphael Broussard, legal representatives and heirs of Pierre Le Blanc, deceased, all residing in Louisiana, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an order of appeal granted on the twelfth day of June, 1849, by the district court of the United States, in and for the eastern district of Louisiana, in a certain cause in chancery (under the acts approved May 26th, 1824, and June 17th, 1844,) entitled (No. 131,) Constance Le Blanc et al. vs. The United States, wherein the said United States of America are now ap-